

AMENDED IN SENATE MAY 11, 2010
AMENDED IN SENATE APRIL 26, 2010
AMENDED IN SENATE APRIL 12, 2010
AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1112

Introduced by Senator Oropeza

February 17, 2010

An act to amend Sections 33333.8, 33333.10, 33333.11, and 33413 of, and to add Section 33333.9 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, as amended, Oropeza. Redevelopment: plan-amendment: ~~brownfield sites~~. *amendment*.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight in those communities. Existing law requires each agency to prepare or cause to be prepared, and approve, a redevelopment plan for each project area. Existing law requires that a redevelopment plan contain specified time limitations and authorizes the extension of time limitations under specified circumstances.

This bill would authorize an agency to extend the time limitation on the effectiveness of a redevelopment plan and on the payment of indebtedness and receipt of property taxes for not more than 10 years if the agency determines, based on substantial evidence that, among other conditions, at least 25% of the project area is ~~a brownfield site, as defined~~ *property where the agency is authorized to take action to remedy or remove a release of hazardous substances pursuant to existing*

law. The bill would require the agency to include in certain reports specified information relating to ~~the brownfield site~~ *that property* and would make other related and conforming changes. *The bill would specify that it applies only to territory within the original boundary of a specified project area of the Carson Redevelopment Agency.* The bill would also declare the need for a special statute.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33333.8 of the Health and Safety Code
2 is amended to read:

3 33333.8. (a) Every redevelopment agency shall comply with
4 and fulfill its obligations with regard to the provision of affordable
5 housing as required by this part prior to the time limit on the
6 effectiveness of the redevelopment plan established pursuant to
7 Sections 33333.2, 33333.6, 33333.9, and 33333.10, and before the
8 agency exceeds a limit on the number of dollars of taxes that may
9 be divided and allocated to the redevelopment agency if required
10 by Section 33333.4 or the limit on the number of dollars of taxes
11 in a redevelopment plan. A legislative body may not adopt an
12 ordinance terminating a redevelopment project area if the agency
13 has not complied with its affordable housing obligations.
14 Notwithstanding any other provision of law, this section shall apply
15 to each redevelopment agency and each redevelopment project
16 area established or merged pursuant to this part and Part 1.5
17 (commencing with Section 34000), including project areas
18 authorized pursuant to this chapter and each individual project
19 area that is authorized pursuant to any other provision of law.

20 (1) The affordable housing obligations specified in subdivision
21 (a) shall include all of the following:

22 (A) The obligation to make deposits to and expenditures from
23 the Low and Moderate Income Housing Fund pursuant to Sections
24 33334.2, 33334.3, 33334.4, 33334.6, 33487, 33492.16, and other
25 similar and related statutes.

26 (B) The obligation to eliminate project deficits pursuant to
27 Sections 33334.6, 33487, 33492.16, and other similar and related
28 statutes.

1 (C) The obligation to expend or transfer excess surplus funds
2 pursuant to Section 33334.12 and other similar and related statutes.

3 (D) The obligation to provide relocation assistance pursuant to
4 Article 9 (commencing with Section 33410), Section 7260 of the
5 Government Code, or other applicable relocation laws.

6 (E) The obligation to provide replacement housing pursuant to
7 subdivision (a) of Section 33413, Article 9 (commencing with
8 Section 33410), and other similar and related statutes.

9 (F) The obligation to provide inclusionary housing pursuant to
10 Section 33413 and other similar and related statutes and ordinances.

11 (2) A redevelopment agency shall not adopt an ordinance
12 terminating a redevelopment project area if the agency has not
13 complied with these obligations.

14 (b) If, on the date of the time limit on the effectiveness of the
15 redevelopment plan, a redevelopment agency has not complied
16 with subdivision (a), the time limit on the effectiveness of the
17 redevelopment plan, and, if necessary, the time limit for repayment
18 of indebtedness, shall be suspended until the agency has complied
19 with subdivision (a). In addition, the agency shall receive and use
20 all tax increment funds that are not pledged to repay indebtedness
21 until the agency has fully complied with its obligations.

22 (c) If, on the date of the time limit on the repayment of
23 indebtedness, the agency has not complied with subdivision (a),
24 the time limit on the repayment of indebtedness shall be suspended
25 until the agency has complied with subdivision (a). In addition,
26 the agency shall receive and use tax increment funds until the
27 agency has fully complied with its obligations.

28 (d) If, on the date of the time limit on the repayment of
29 indebtedness, the agency has complied with its obligations under
30 subdivision (a) and has moneys remaining in the Low and Moderate
31 Income Housing Fund, the agency shall transfer the remaining
32 moneys to a low and moderate income housing fund or account
33 for a different project area within the agency's jurisdiction, if one
34 exists, or if a different project area does not exist, the agency shall
35 either transfer the remaining moneys to a special fund of the
36 community or to the community or county housing authority. The
37 community, community housing authority, or county housing
38 authority to which the remaining moneys are transferred shall
39 utilize the moneys for the purposes of, and subject to the same

1 restrictions that are applicable to, the redevelopment agency under
2 this part.

3 (e) If a redevelopment plan provides a limit on the total amount
4 of tax increment funds that may be received by a redevelopment
5 agency for any project area, and if that limit is reached prior to the
6 agency complying with its obligations pursuant to subdivision (a),
7 that limit is suspended until the agency has complied with
8 subdivision (a) and the agency shall receive and use tax increment
9 funds until the agency has fully complied with its obligations.

10 (f) If an agency fails to comply with its obligations pursuant to
11 this section, any person may seek judicial relief. The court shall
12 require the agency to take all steps necessary to comply with those
13 obligations, including, as necessary, the adoption of ordinances,
14 to incur debt, to obtain tax increments, to expend tax increments,
15 and to enter into contracts as necessary to meet its housing
16 obligations under this part.

17 SEC. 2. Section 33333.9 is added to the Health and Safety
18 Code, to read:

19 33333.9. (a) (1) Notwithstanding the time limits in
20 subdivisions (a) and (b) of Section 33333.6, an agency that adopted
21 a redevelopment plan on or before December 31, 1993, may,
22 pursuant to this section, amend the plan to extend the time limit
23 on the effectiveness of the plan for up to 10 additional years beyond
24 the limit allowed by subdivision (a) of Section 33333.6.

25 (2) In addition, the agency may, pursuant to this section, amend
26 the plan to extend the time limit on the payment of indebtedness
27 and receipt of property taxes to be not more than 10 years from
28 the termination of the effectiveness of the redevelopment plan as
29 that time limit has been amended pursuant to paragraph (1).

30 (b) A redevelopment plan for a project area may be amended
31 pursuant to subdivision (a) only after the agency determines, based
32 on substantial evidence, that all of the following conditions exist:

33 (1) At least 25 percent of the property within the project area
34 is a ~~brownfield site~~ *property where the agency is authorized to*
35 *take action to remedy or remove a release of hazardous substances*
36 *pursuant to the Polanco Redevelopment Act (Article 12.5*
37 *(commencing with Section 33459) of Chapter 4 of Part 1 of*
38 *Division 24).*

39 (2) The redevelopment plan for the project area will expire
40 within five years of the date of the determination.

(3) The presence of the ~~brownfield site~~ *described property* adds significant costs and time to the ability of the agency to eliminate blight according to the redevelopment plan.

(4) Significant blight will remain in the project area at the time of the redevelopment plan effectiveness date limit unless that effectiveness date limit is extended.

(5) None of the ~~brownfield sites~~ *described property* included in the calculation for paragraph (1) of this section was contaminated through actions of the agency.

(c) As used in this section, the following terms shall have the following meanings:

(1) “Blight” has the same meaning as that term is given in Section 33030.

~~(2) “Brownfield site” means property where the agency is authorized to take action to remedy or remove a release of hazardous substances pursuant to the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24).~~

~~(3)~~

(2) “Necessary and essential parcels” means parcels that are not blighted but are so necessary and essential to the elimination of the blight that the parcels should be included within the portion of the project area in which tax increment funds may be spent. To be considered a “necessary and essential parcel” the parcel shall meet one of the following requirements:

(A) The parcel is adjacent to one or more blighted parcels that are to be assembled in order to create a parcel of adequate size, given present standards and market conditions.

(B) The parcel or parcels on which it is necessary to construct a public improvement to eliminate blight is adjacent to or near parcels that are blighted.

~~(4) (A)~~

(3) “Project area” means the original boundary of Project Area No. 1 of the Carson Redevelopment Agency, as that project area was established in 1971.

~~(B) For purposes of this section, significant blight can exist in a project area even though it is not prevalent in a project area. The report submitted to the legislative body pursuant to Section 33352 shall identify on a map the portion of the project area in which significant blight remains and the locations of the brownfield site.~~

1 ~~(5)~~

2 (4) “Significant” means important and of a magnitude to warrant
3 agency assistance.

4 (d) *For purposes of this section, significant blight can exist in*
5 *a project area even though it is not prevalent in a project area.*
6 *The report submitted to the legislative body pursuant to Section*
7 *33352 shall identify on a map the portion of the project area in*
8 *which significant blight remains and the locations of the property*
9 *where the agency is authorized to take action to remedy or remove*
10 *a release of hazardous substances pursuant to the Polanco*
11 *Redevelopment Act (Article 12.5 (commencing with Section 33459)*
12 *of Chapter 4 of Part 1 of Division 24).*

13 ~~(d)~~

14 (e) After the limit on the payment of indebtedness and receipt
15 of property taxes that would have taken effect but for the
16 amendment pursuant to this section, except for funds deposited in
17 the Low and Moderate Income Housing Fund pursuant to Section
18 33334.2 or 33334.6, the agency shall spend tax increment funds
19 only within the portion of the project area that has been identified
20 in the report adopted pursuant to Section 33352 as the area
21 containing blighted parcels and necessary and essential parcels.
22 Except as otherwise provided in subdivisions ~~(e)~~ and ~~(f)~~ (f) and
23 (g), an agency may continue to spend funds deposited in the Low
24 and Moderate Income Housing Fund in accordance with this
25 division.

26 ~~(e)~~

27 (f) An agency shall not amend its redevelopment plan pursuant
28 to this section unless the agency first adopts a resolution that finds,
29 based on substantial evidence, all of the following:

30 (1) The community has adopted a housing element that the
31 department has determined, pursuant to Section 65585 of the
32 Government Code, to be in substantial compliance with the
33 requirements of Article 10.6 (commencing with Section 65580)
34 of Chapter 3 of Division 1 of Title 7 of the Government Code, or
35 if applicable, an eligible city or county within the jurisdiction of
36 the San Diego Association of Governments has adopted a
37 self-certification compliance with its adopted housing element
38 pursuant to Section 65585.1 of the Government Code.

39 (2) During the three fiscal years prior to the year in which the
40 amendment is adopted, the agency has not been included in the

1 report sent by the Controller to the Attorney General pursuant to
2 subdivision (b) of Section 33080.8 as an agency that has a “major
3 violation” pursuant to that section.

4 (3) After a written request by the agency and provision of the
5 information requested by the department, the department has issued
6 a letter to the agency confirming that the agency has not
7 accumulated an excess surplus in its Low and Moderate Income
8 Housing Fund. As used in this section, “excess surplus” has the
9 same meaning as that term is defined in Section 33334.12. The
10 department shall develop a methodology to collect information
11 required by this section. Information requested by the department
12 shall include a certification by the agency’s independent auditor
13 on the status of excess surplus and submittal of data for the
14 department to verify the status of excess surplus. The independent
15 auditor shall make the required certification based on the
16 Controller’s office guidelines, which shall include the methodology
17 prescribed by the department pursuant to subparagraph (D) of
18 paragraph (3) of subdivision (g) of Section 33334.12. If the
19 department does not respond to the written request of the agency
20 for this determination within 90 days of receipt of the written
21 request, compliance with this requirement shall be deemed
22 confirmed.

23 ~~(f)~~

24 (g) Each redevelopment plan that was adopted prior to January
25 1, 1976, that is amended pursuant to subdivision (a) shall also be
26 amended simultaneously to apply subdivision (b) of Section 33413
27 applicable to the redevelopment plan in accordance with paragraph
28 (1) of subdivision (d) of Section 33413.

29 ~~(g)~~

30 (h) Any amendment to a redevelopment plan pursuant to this
31 section shall be made by ordinance pursuant to Article 12
32 (commencing with Section 33450). The ordinance shall be subject
33 to referendum.

34 ~~(h)~~

35 (i) This section shall not apply to a project area that retains its
36 eligibility to incur indebtedness and receive tax increment revenues
37 pursuant to Section 33333.7.

38 ~~(i)~~

39 (j) Any limitations established by an ordinance adopted pursuant
40 to this section shall not be applied to limit allocation of taxes to

1 an agency to the extent required to comply with Section 33333.8.
2 In the event of a conflict between those limitations and Section
3 33333.8, the limitation shall be subject to that section.

4 (j)

5 (k) This section shall apply only to the territory within the
6 original boundary of Project Area No. 1 of the Carson
7 Redevelopment Agency, as that project area was established in
8 1971.

9 SEC. 3. Section 33333.10 of the Health and Safety Code is
10 amended to read:

11 33333.10. (a) (1) Notwithstanding the time limits in
12 subdivisions (a) and (b) of Section 33333.6, an agency that adopted
13 a redevelopment plan on or before December 31, 1993, may,
14 pursuant to this section, amend that plan to extend the time limit
15 on effectiveness of the plan for up to 10 additional years beyond
16 the limit allowed by subdivision (a) of Section 33333.6.

17 (2) In addition, the agency may, pursuant to this section, amend
18 that plan to extend the time limit on the payment of indebtedness
19 and receipt of property taxes to be not more than 10 years from
20 the termination of the effectiveness of the redevelopment plan as
21 that time limit has been amended pursuant to paragraph (1).

22 (b) A redevelopment plan may be amended pursuant to
23 subdivision (a) only after the agency finds, based on substantial
24 evidence, that both of the following conditions exist:

25 (1) Significant blight remains within the project area.

26 (2) This blight cannot be eliminated without extending the
27 effectiveness of the plan and the receipt of property taxes.

28 (c) As used in this section:

29 (1) "Blight" has the same meaning as that term is given in
30 Section 33030.

31 (2) "Significant" means important and of a magnitude to warrant
32 agency assistance.

33 (3) "Necessary and essential parcels" means parcels that are not
34 blighted but are so necessary and essential to the elimination of
35 the blight that these parcels should be included within the portion
36 of the project area in which tax increment funds may be spent.
37 "Necessary and essential parcels" are (A) parcels that are adjacent
38 to one or more blighted parcels that are to be assembled in order
39 to create a parcel of adequate size given present standards and
40 market conditions, and (B) parcels that are adjacent or near parcels

1 that are blighted on which it is necessary to construct a public
2 improvement to eliminate the blight.

3 (d) For purposes of this section, significant blight can exist in
4 a project area even though blight is not prevalent in a project area.
5 The report submitted to the legislative body pursuant to Section
6 33352 shall identify on a map the portion of the project area in
7 which significant blight remains.

8 (e) After the limit on the payment of indebtedness and receipt
9 of property taxes that would have taken effect but for the
10 amendment pursuant to this section, except for funds deposited in
11 the Low and Moderate Income Housing Fund pursuant to Section
12 33334.2 or 33334.6, the agency shall spend tax increment funds
13 only within the portion of the project area that has been identified
14 in the report adopted pursuant to Section 33352 as the area
15 containing blighted parcels and necessary and essential parcels.
16 Except as otherwise limited by subdivisions (f) and (g), agencies
17 may continue to spend funds deposited in the Low and Moderate
18 Income Housing Fund in accordance with this division.

19 (f) (1) Except as otherwise provided in this subdivision, after
20 the limit on the payment of indebtedness and receipt of property
21 taxes that would have taken effect, but for the amendment pursuant
22 to this section, agencies shall only spend moneys from the Low
23 and Moderate Income Housing Fund for the purpose of increasing,
24 improving, and preserving the community's supply of housing at
25 affordable housing cost to persons and families of low, very low,
26 or extremely low income, as defined in Sections 50079.5, 50093,
27 50105, and 50106. During this period, an agency that has adopted
28 an amendment pursuant to subdivision (a) may use moneys from
29 the Low and Moderate Income Housing Fund for the purpose of
30 increasing, improving, and preserving housing at affordable
31 housing cost to persons and families of moderate income as defined
32 in Section 50093. However, this amount shall not exceed, in a
33 five-year period, the amount of moneys from the Low and
34 Moderate Income Housing Fund that are used to increase, improve,
35 and preserve housing at affordable housing cost to persons and
36 families of extremely low income, as defined in Section 50106.
37 In no case shall the amount expended for housing for persons and
38 families of moderate income exceed 15 percent of the annual
39 amount deposited in the Low and Moderate Income Housing Fund
40 during a five-year period and the number of housing units

1 affordable to moderate-income persons shall not exceed the number
2 of housing units affordable to extremely low income persons.

3 (2) Commencing with the first fiscal year that commences after
4 the date of the adoption of an amendment pursuant to subdivision
5 (a) and until the limit on the payment of indebtedness and receipt
6 of property taxes that would have taken effect but for the
7 amendment pursuant to this section, an agency that has adopted
8 an amendment pursuant to subdivision (a) may use moneys from
9 the Low and Moderate Income Housing Fund for the purpose of
10 increasing, improving, and preserving housing at affordable
11 housing cost to persons and families of moderate income as defined
12 in Section 50093. However, this amount shall not exceed, in a
13 five-year period, 15 percent of the amount of moneys deposited
14 in the Low and Moderate Income Housing Fund during that
15 five-year period and shall only be used to assist housing projects
16 in which no less than 49 percent of the units are affordable to and
17 occupied by persons and families of low, very low, or extremely
18 low income. An agency may spend an additional amount of moneys
19 in the same or other housing projects to assist housing units
20 affordable to and occupied by moderate-income persons. However,
21 this amount shall not exceed the lesser of: the amount of moneys
22 spent to increase, improve, and preserve housing at affordable
23 housing cost to persons and families of extremely low income as
24 defined in Section 50106, or 5 percent of the moneys deposited in
25 the Low and Moderate Income Housing Fund during that five-year
26 period.

27 (g) (1) Except as provided in paragraph (2) or (3), commencing
28 with the first fiscal year that commences after the date of adoption
29 of an amendment pursuant to subdivision (a), not less than 30
30 percent of all taxes that are allocated to the agency pursuant to
31 Section 33670 from the redevelopment project area so amended
32 shall be deposited into that project's Low and Moderate Income
33 Housing Fund for the purposes specified in subdivision (f).

34 (2) In any fiscal year, the agency may deposit less than the
35 amount required by paragraph (1), but not less than the amount
36 required by Section 33334.2 or 33334.6, into the Low and
37 Moderate Income Housing Fund if the agency finds that the
38 difference between the amount deposited and the amount required
39 by paragraph (1) is necessary to make principal and interest
40 payments during that fiscal year on bonds sold by the agency to

1 finance or refinance the redevelopment project prior to six months
2 before the date of adoption of the amendment pursuant to
3 subdivision (a). Bonds sold by the agency prior to six months
4 before the date of the adoption of the amendment pursuant to
5 subdivision (a) may only be refinanced, refunded, or restructured
6 after the date of the amendment pursuant to subdivision (a).
7 However, for purposes of this section, bonds refinanced, refunded,
8 or restructured after the date of the amendment pursuant to
9 subdivision (a) may only be treated as if sold on the date the
10 original bonds were sold if (A) the net proceeds were used to
11 refinance the original bonds, (B) there is no increase in the amount
12 of principal at the time of refinancing, restructuring, or refunding,
13 and (C) the time during which the refinanced indebtedness is to
14 be repaid does not exceed the date on which the existing
15 indebtedness would have been repaid.

16 (3) No later than 120 days prior to depositing less than the
17 amount required by paragraph (1) into the Low and Moderate
18 Income Housing Fund, the agency shall adopt, by resolution after
19 a noticed public hearing, a finding that the difference between the
20 amount allocated and the amount required by paragraph (1) is
21 necessary to make payments on bonds sold by the agency to finance
22 or refinance the redevelopment project and identified in the
23 preliminary report adopted pursuant to paragraph (9) of subdivision
24 (e) of Section 33333.11, and specifying the amount of principal
25 remaining on the bonds, the amount of annual payments, and the
26 date on which the indebtedness will be repaid. Notice of the time
27 and place of the public hearing shall be published in a newspaper
28 of general circulation once a week for at least two successive weeks
29 prior to the public hearing. The agency shall make available to the
30 public the proposed resolution no later than the time of the
31 publication of the first notice of the public hearing. A copy of the
32 resolution shall be transmitted to the Department of Housing and
33 Community Development within 10 days after adoption.

34 (4) Notwithstanding paragraph (1), an agency that sells bonds
35 on or after the date of adoption of an amendment pursuant to
36 subdivision (a), the repayment of which is to be made from taxes
37 allocated to the agency pursuant to Section 33670 from the project
38 so amended, may elect to subordinate up to 16 $\frac{2}{3}$ percent of its
39 annual 30-percent Low and Moderate Income Housing Fund
40 deposit obligation to the payment of debt service on the bonds. If

1 the agency makes that election and in any year the agency has
2 insufficient tax-increment revenue available to pay debt service
3 on the bonds to which the funds from the Low and Moderate
4 Income Housing Fund are subordinated, the agency may deposit
5 less than the full 100 percent of its annual 30-percent Low and
6 Moderate Income Housing Fund obligation but only to the extent
7 necessary to pay that debt service and in no event shall less than
8 $83 \frac{1}{3}$ percent of that obligation be deposited into the Low and
9 Moderate Income Housing Fund for that year. The difference
10 between the amount that is actually deposited in the Low and
11 Moderate Income Housing Fund and the full 100 percent of the
12 agency's 30-percent Low and Moderate Income Housing Fund
13 deposit obligation shall constitute a deficit in the Low and
14 Moderate Income Housing Fund subject to repayment pursuant to
15 paragraph (5).

16 (5) If, pursuant to paragraph (2) or (4), the agency deposits less
17 than 30 percent of the taxes allocated to the agency pursuant to
18 Section 33670 in any fiscal year in the Low and Moderate Income
19 Housing Fund, the amount equal to the difference between 30
20 percent of the taxes allocated to the agency pursuant to Section
21 33670 for each affected redevelopment project area and the amount
22 actually deposited in the Low and Moderate Income Housing Fund
23 for that fiscal year shall be established as a deficit in the Low and
24 Moderate Income Housing Fund. Any new tax increment funds
25 not encumbered pursuant to paragraph (2) or (4) shall be utilized
26 to reduce or eliminate the deficit prior to entering into any new
27 contracts, commitments, or indebtedness. The obligations imposed
28 by this section are hereby declared to be an indebtedness of the
29 redevelopment project to which they relate, payable from taxes
30 allocated to the agency pursuant to Section 33670 and,
31 notwithstanding any other provision of law, shall constitute an
32 indebtedness of the agency with respect to the redevelopment
33 project, and the agency shall continue to receive allocations of
34 taxes pursuant to Section 33670 until the deficit is paid in full.

35 (h) An agency may not amend its redevelopment plan pursuant
36 to this section unless the agency first adopts a resolution that finds,
37 based on substantial evidence, all of the following:

38 (1) The community has adopted a housing element that the
39 department has determined pursuant to Section 65585 of the
40 Government Code to be in substantial compliance with the

1 requirements of Article 10.6 (commencing with Section 65580)
2 of Chapter 3 of Division 1 of Title 7 of the Government Code, or
3 if applicable, an eligible city or county within the jurisdiction of
4 the San Diego Association of Governments has adopted a
5 self-certification of compliance with its adopted housing element
6 pursuant to Section 65585.1 of the Government Code.

7 (2) During the three fiscal years prior to the year in which the
8 amendment is adopted, the agency has not been included in the
9 report sent by the Controller to the Attorney General pursuant to
10 subdivision (b) of Section 33080.8 as an agency that has a “major
11 violation” pursuant to Section 33080.8.

12 (3) After a written request by the agency and provision of the
13 information requested by the department, the department has issued
14 a letter to the agency, confirming that the agency has not
15 accumulated an excess surplus in its Low and Moderate Income
16 Housing Fund. As used in this section, “excess surplus” has the
17 same meaning as that term is defined in Section 33334.12. The
18 department shall develop a methodology to collect information
19 required by this section. Information requested by the department
20 shall include a certification by the agency’s independent auditor
21 on the status of excess surplus and submittal of data for the
22 department to verify the status of excess surplus. The independent
23 auditor shall make the required certification based on the
24 Controller’s office guidelines which shall include the methodology
25 prescribed by the department pursuant to subparagraph (D) of
26 paragraph (3) of subdivision (g) of Section 33334.12. If the
27 department does not respond to the written request of the agency
28 for this determination within 90 days after receipt of the written
29 request, compliance with this requirement shall be deemed
30 confirmed.

31 (i) Each redevelopment plan that has been adopted prior to
32 January 1, 1976, that is amended pursuant to subdivision (a) shall
33 also be amended at the same time to make subdivision (b) of
34 Section 33413 applicable to the redevelopment plan in accordance
35 with paragraph (1) of subdivision (d) of Section 33413.

36 (j) The amendment to the redevelopment plan authorized
37 pursuant to this section shall be made by ordinance pursuant to
38 Article 12 (commencing with Section 33450). The ordinance shall
39 be subject to referendum as prescribed by law for ordinances of
40 the legislative body.

1 (k) This section shall not apply to a project area that retains its
2 eligibility to incur indebtedness and receive tax increment revenues
3 pursuant to Section 33333.7.

4 (l) The limitations established in the ordinance adopted pursuant
5 to this section shall not be applied to limit allocation of taxes to
6 an agency to the extent required to comply with Section 33333.8.
7 In the event of a conflict between these limitations and the
8 obligations under Section 33333.8, the limitation established in
9 the ordinance shall be suspended pursuant to Section 33333.8.

10 (m) This section shall not apply to an amendment to extend the
11 time limit on the effectiveness of a plan pursuant to Section
12 33333.9.

13 SEC. 4. Section 33333.11 of the Health and Safety Code is
14 amended to read:

15 33333.11. (a) In order to adopt an amendment pursuant to
16 Section 33333.9 or Section 33333.10, the redevelopment agency
17 shall also comply with the procedures in this section.

18 (b) Before adopting an amendment of the plan, the agency shall
19 hold a public hearing on the proposed amendment. The notice of
20 the public hearing shall comply with Section 33452.

21 (c) Prior to the publication of the notice of the public hearing
22 on the proposed amendment, the agency shall consult with each
23 affected taxing agency with respect to the proposed amendment.
24 At a minimum, the agency shall give each affected taxing agency
25 the opportunity to meet with representatives of the agency for the
26 purpose of discussing the effect of the proposed amendment upon
27 the affected taxing agency and shall notify each affected taxing
28 agency that any written comments from the affected taxing agency
29 will be included in the report to the legislative body.

30 (d) Prior to the publication of the notice of the public hearing
31 on the proposed amendment, the agency shall consult with and
32 obtain the advice of members of a project area committee, if a
33 project area committee exists, and residents and community
34 organizations and provide to those persons and organizations,
35 including the project area committee, if any, the amendment prior
36 to the agency's submitting the amendment to the legislative body.

37 In addition, the preliminary report prepared pursuant to subdivision
38 (e) shall be made available at no cost to the project area committee,
39 if one exists, and residents and community organizations not later

1 than 120 days prior to holding a public hearing on the proposed
2 amendment.

3 (e) No later than 120 days prior to holding a public hearing on
4 the proposed amendment, the agency shall send to each affected
5 taxing entity, as defined in Section 33353.2, the Department of
6 Finance, and the Department of Housing and Community
7 Development, a preliminary report that contains all of the
8 following:

9 (1) A map of the project area that identifies the portion, if any,
10 of the project area that is no longer blighted and the portion of the
11 project area that is blighted and the portion of the project area that
12 contains necessary and essential parcels for the elimination of the
13 remaining blight.

14 (2) A description of the remaining blight.

15 (3) A description of the projects or programs proposed to
16 eliminate the remaining blight.

17 (4) A description of how the project or programs will improve
18 the conditions of blight.

19 (5) The reasons why the projects or programs cannot be
20 completed without extending the time limits on the effectiveness
21 of the plan and receipt of tax increment revenues.

22 (6) The proposed method of financing these programs or
23 projects. This description shall include the amount of tax increment
24 revenues that is projected to be generated during the period of the
25 extension, including amounts projected to be deposited into the
26 Low and Moderate Income Housing Fund and amounts to be paid
27 to affected taxing entities. This description shall also include
28 sources and amounts of moneys other than tax increment revenues
29 that are available to finance these projects or programs. This
30 description shall also include the reasons that the remaining blight
31 cannot reasonably be expected to be reversed or alleviated by
32 private enterprise or governmental action, or both, without the use
33 of the tax increment revenues available to the agency because of
34 the proposed amendment.

35 (7) If the redevelopment plan is *to be* amended pursuant to
36 Section 33333.10, an amendment to the agency's implementation
37 plan that includes, but is not limited to, the agency's housing
38 responsibilities pursuant to Section 33490. However, the agency
39 shall not be required to hold a separate public hearing on the
40 implementation plan pursuant to subdivision (d) of Section 33490

1 in addition to the public hearing on the amendment to the
2 redevelopment plan.

3 (8) A new neighborhood impact report if required by subdivision
4 (m) of Section 33352.

5 (9) A description of each bond sold by the agency to finance or
6 refinance the redevelopment project prior to six months before the
7 date of adoption of the proposed amendment, and listing for each
8 bond the amount of remaining principal, the annual payments, and
9 the date that the bond will be paid in full.

10 (10) If the redevelopment plan is *to be* amended pursuant to
11 Section 33333.9, a study documenting the presence of the
12 ~~brownfield sites~~ *property where the agency is authorized to take*
13 *action to remedy or remove a release of hazardous substances*
14 *pursuant to the Polanco Redevelopment Act (Article 12.5*
15 *(commencing with Section 33459) of Chapter 4 of Part 1 of*
16 *Division 24)* and the locations of the ~~sites~~ *properties* identified on
17 the map of the project area required in paragraph (1).

18 (f) No later than 120 days prior to holding a public hearing on
19 the proposed amendment, the agency shall send the proposed
20 amendment to the planning commission. If the planning
21 commission does not report upon the amendment within 30 days
22 after its submission by the agency, the planning commission shall
23 be deemed to have waived its report and recommendations
24 concerning the amendment.

25 (g) No later than 45 days prior to the public hearing on the
26 proposed amendment by the agency or the joint public hearing of
27 the agency and the legislative body, the agency shall notify each
28 affected taxing entity, the Department of Finance, the Department
29 of Housing and Community Development, and each individual
30 and organization that submitted comments on the preliminary
31 report by certified mail of the public hearing, the date of the public
32 hearing, and the proposed amendment. This notice shall be
33 accompanied by the report required to be prepared pursuant to
34 subdivision (h).

35 (h) No later than 45 days prior to the public hearing on the
36 proposed amendment by the agency or the joint public hearing by
37 the agency and the legislative body, the agency shall adopt a report
38 to the legislative body containing all of the following:

39 (1) All of the information required to be contained in the
40 preliminary report prepared pursuant to subdivision (e).

1 (2) The report and recommendation of the planning commission.

2 (3) A negative declaration, environmental impact report, or
3 other document that is required in order to comply with the
4 California Environmental Quality Act (Division 13 (commencing
5 with Section 21000) of the Public Resources Code).

6 (4) A summary of the consultations with the affected taxing
7 entities. If any of the affected taxing entities, a project area
8 committee, if any, residents, or community organizations have
9 expressed written objections or concerns with the proposed
10 amendment as part of these consultations, the agency shall include
11 a response to these concerns.

12 (5) A summary of the consultation with residents and community
13 organizations, including the project area committee, if any.

14 (i) After receiving the recommendation of the agency on the
15 proposed amendment, and not sooner than 30 days after the
16 submission of changes to the planning commission, the legislative
17 body shall hold a public hearing on the proposed amendment. The
18 notice of the public hearing shall comply with Section 33452.

19 (j) As an alternative to the separate public hearing required by
20 subdivision (i), the agency and the legislative body, with the
21 consent of both, may hold a joint public hearing on the proposed
22 amendment. Notice of this public hearing shall comply with Section
23 33452. When a joint public hearing is held and the legislative body
24 is also the agency, the legislative body may adopt the amended
25 plan with no actions required of the agency. If, after the public
26 hearing, the legislative body determines that the amendment to the
27 plan is necessary or desirable, the legislative body shall adopt an
28 ordinance amending the ordinance adopting the plan thus amended.
29 The ordinance adopting the amendment shall contain findings that
30 both (1) significant blight remains within the project area, and (2)
31 the blight cannot be eliminated without the extension of the
32 effectiveness of the plan and receipt of tax increment revenues.

33 (k) If an affected taxing entity, the Department of Finance, or
34 the Department of Housing and Community Development believes
35 that significant remaining blight does not exist within the portion
36 of the project area designated as blighted in the report to the
37 legislative body regarding a proposed amendment to be adopted
38 pursuant to Section 33333.10, the affected taxing entity, the
39 Department of Finance, or the Department of Housing and
40 Community Development may request the Attorney General to

1 participate in the amendment process. The affected taxing entity,
2 the Department of Finance, or the Department of Housing and
3 Community Development shall request this participation within
4 21 days after receipt of the notice of the public hearing sent
5 pursuant to subdivision (g). The Attorney General shall determine
6 whether or not to participate in the amendment process. The
7 Attorney General may consult with and request the assistance of
8 departments of the state and any other persons or groups that are
9 interested or that have expertise in redevelopment. The Attorney
10 General may participate in the amendment process by requesting
11 additional information from the agency, conducting his or her own
12 review of the project area, meeting with the agency and any
13 affected taxing entity, submitting evidence for consideration at the
14 public hearing, or presenting oral evidence at the public hearing.
15 No later than five days prior to the public hearing on the proposed
16 amendment, the Attorney General shall notify each affected taxing
17 agency, each department that has requested the Attorney General
18 to review the proposed amendment, and the redevelopment agency
19 with regard to whether the Attorney General will participate in the
20 amendment process and, if so, how he or she will participate, on
21 their behalf.

22 (l) The Attorney General may bring a civil action pursuant to
23 Section 33501 to determine the validity of an amendment adopted
24 pursuant to Section 33333.10. The Department of Finance and the
25 Department of Housing and Community Development shall be
26 considered interested persons for the purposes of protecting the
27 interests of the state pursuant to Section 863 of the Code of Civil
28 Procedure in any action brought with regard to the validity of an
29 ordinance adopting a proposed amendment pursuant to Section
30 33333.10. Either department may request the Attorney General to
31 bring an action pursuant to Section 33501 to determine the validity
32 of an amendment adopted pursuant to Section 33333.10. Actions
33 brought pursuant to this subdivision are in addition to any other
34 actions that may be brought by the Attorney General or other
35 persons.

36 SEC. 5. Section 33413 of the Health and Safety Code is
37 amended to read:

38 33413. (a) Whenever dwelling units housing persons and
39 families of low or moderate income are destroyed or removed from
40 the low- and moderate-income housing market as part of a

1 redevelopment project that is subject to a written agreement with
2 the agency or where financial assistance has been provided by the
3 agency, the agency shall, within four years of the destruction or
4 removal, rehabilitate, develop, or construct, or cause to be
5 rehabilitated, developed, or constructed, for rental or sale to persons
6 and families of low or moderate income, an equal number of
7 replacement dwelling units that have an equal or greater number
8 of bedrooms as those destroyed or removed units at affordable
9 housing costs within the territorial jurisdiction of the agency. When
10 dwelling units are destroyed or removed after September 1, 1989,
11 75 percent of the replacement dwelling units shall replace dwelling
12 units available at affordable housing cost in the same or a lower
13 income level of very low income households, lower income
14 households, and persons and families of low and moderate income,
15 as the persons displaced from those destroyed or removed units.
16 When dwelling units are destroyed or removed on or after January
17 1, 2002, 100 percent of the replacement dwelling units shall be
18 available at affordable housing cost to persons in the same or a
19 lower income category (low, very low, or moderate), as the persons
20 displaced from those destroyed or removed units.

21 (b) (1) Prior to the time limit on the effectiveness of the
22 redevelopment plan established pursuant to Sections 33333.2,
23 33333.6, 33333.9, and 33333.10 at least 30 percent of all new and
24 substantially rehabilitated dwelling units developed by an agency
25 shall be available at affordable housing cost to, and occupied by,
26 persons and families of low or moderate income. Not less than 50
27 percent of the dwelling units required to be available at affordable
28 housing cost to, and occupied by, persons and families of low or
29 moderate income shall be available at affordable housing cost to,
30 and occupied by, very low income households.

31 (2) (A) (i) Prior to the time limit on the effectiveness of the
32 redevelopment plan established pursuant to Sections 33333.2,
33 33333.6, 33333.9 and 33333.10 at least 15 percent of all new and
34 substantially rehabilitated dwelling units developed within a project
35 area under the jurisdiction of an agency by public or private entities
36 or persons other than the agency shall be available at affordable
37 housing cost to, and occupied by, persons and families of low or
38 moderate income. Not less than 40 percent of the dwelling units
39 required to be available at affordable housing cost to, and occupied
40 by, persons and families of low or moderate income shall be

1 available at affordable housing cost to, and occupied by, very low
2 income households.

3 (ii) To satisfy this paragraph, in whole or in part, the agency
4 may cause, by regulation or agreement, to be available, at
5 affordable housing cost, to, and occupied by, persons and families
6 of low or moderate income or to very low income households, as
7 applicable, two units outside a project area for each unit that
8 otherwise would have been required to be available inside a project
9 area.

10 (iii) On or after January 1, 2002, as used in this paragraph and
11 in paragraph (1), “substantially rehabilitated dwelling units” means
12 all units substantially rehabilitated, with agency assistance. Prior
13 to January 1, 2002, “substantially rehabilitated dwelling units”
14 shall mean substantially rehabilitated multifamily rented dwelling
15 units with three or more units regardless of whether there is agency
16 assistance, or substantially rehabilitated, with agency assistance,
17 single-family dwelling units with one or two units.

18 (iv) As used in this paragraph and in paragraph (1), “substantial
19 rehabilitation” means rehabilitation, the value of which constitutes
20 25 percent of the after rehabilitation value of the dwelling, inclusive
21 of the land value.

22 (v) To satisfy this paragraph, the agency may aggregate new or
23 substantially rehabilitated dwelling units in one or more project
24 areas, if the agency finds, based on substantial evidence, after a
25 public hearing, that the aggregation will not cause or exacerbate
26 racial, ethnic, or economic segregation.

27 (B) To satisfy the requirements of paragraph (1) and
28 subparagraph (A), the agency may purchase, or otherwise acquire
29 or cause by regulation or agreement the purchase or other
30 acquisition of, long-term affordability covenants on multifamily
31 units that restrict the cost of renting or purchasing those units that
32 either: (i) are not presently available at affordable housing cost to
33 persons and families of low or very low income households, as
34 applicable; or (ii) are units that are presently available at affordable
35 housing cost to this same group of persons or families, but are
36 units that the agency finds, based upon substantial evidence, after
37 a public hearing, cannot reasonably be expected to remain
38 affordable to this same group of persons or families.

39 (C) To satisfy the requirements of paragraph (1) and
40 subparagraph (A), the long-term affordability covenants purchased

1 or otherwise acquired pursuant to subparagraph (B) shall be
2 required to be maintained on dwelling units at affordable housing
3 cost to, and occupied by, persons and families of low or very low
4 income, for the longest feasible time but not less than 55 years for
5 rental units and 45 years for owner-occupied units. Not more than
6 50 percent of the units made available pursuant to paragraph (1)
7 and subparagraph (A) may be assisted through the purchase or
8 acquisition of long-term affordability covenants pursuant to
9 subparagraph (B). Not less than 50 percent of the units made
10 available through the purchase or acquisition of long-term
11 affordability covenants pursuant to subparagraph (B) shall be
12 available at affordable housing cost to, and occupied by, very low
13 income households.

14 (D) To satisfy the requirements of paragraph (1) and
15 subparagraph (A), each mutual self-help housing unit, as defined
16 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
17 33334.3, that is subject to a 15-year deed restriction shall count as
18 one-third of a unit.

19 (3) The requirements of this subdivision shall apply
20 independently of the requirements of subdivision (a). The
21 requirements of this subdivision shall apply, in the aggregate, to
22 housing made available pursuant to paragraphs (1) and (2),
23 respectively, and not to each individual case of rehabilitation,
24 development, or construction of dwelling units, unless an agency
25 determines otherwise.

26 (4) Each redevelopment agency, as part of the implementation
27 plan required by Section 33490, shall adopt a plan to comply with
28 the requirements of this subdivision for each project area. The plan
29 shall be consistent with, and may be included within, the
30 community's housing element. The plan shall be reviewed and, if
31 necessary, amended at least every five years in conjunction with
32 either the housing element cycle or the plan implementation cycle.
33 The plan shall ensure that the requirements of this subdivision are
34 met every 10 years. If the requirements of this subdivision are not
35 met by the end of each 10-year period, the agency shall meet these
36 goals on an annual basis until the requirements for the 10-year
37 period are met. If the agency has exceeded the requirements within
38 the 10-year period, the agency may count the units that exceed the
39 requirement in order to meet the requirements during the next

1 10-year period. The plan shall contain the contents required by
2 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

3 (c) (1) The agency shall require that the aggregate number of
4 replacement dwelling units and other dwelling units rehabilitated,
5 developed, constructed, or price restricted pursuant to subdivision
6 (a) or (b) remain available at affordable housing cost to, and
7 occupied by, persons and families of low-income,
8 moderate-income, and very low income households, respectively,
9 for the longest feasible time, but for not less than 55 years for
10 rental units, 45 years for home ownership units, and 15 years for
11 mutual self-help housing units, as defined in subparagraph (C) of
12 paragraph (1) of subdivision (f) of Section 33334.3, except as set
13 forth in paragraph (2). Nothing in this paragraph precludes the
14 agency and the developer of the mutual self-help housing units
15 from agreeing to 45-year deed restrictions.

16 (2) Notwithstanding paragraph (1), the agency may permit sales
17 of owner-occupied units prior to the expiration of the 45-year
18 period, and mutual self-help housing units prior to the expiration
19 of the 15-year period, established by the agency for a price in
20 excess of that otherwise permitted under this subdivision pursuant
21 to an adopted program that protects the agency's investment of
22 moneys from the Low and Moderate Income Housing Fund,
23 including, but not limited to, an equity sharing program that
24 establishes a schedule of equity sharing that permits retention by
25 the seller of a portion of those excess proceeds, based on the length
26 of occupancy. The remainder of the excess proceeds of the sale
27 shall be allocated to the agency, and deposited into the Low and
28 Moderate Income Housing Fund. The agency shall, within three
29 years from the date of sale pursuant to this paragraph of each home
30 ownership or mutual self-help housing unit subject to a 45-year
31 deed restriction, and every third mutual self-help housing unit
32 subject to a 15-year deed restriction, expend funds to make
33 affordable an equal number of units at the same or lowest income
34 level as the unit or units sold pursuant to this paragraph, for a
35 period not less than the duration of the original deed restrictions.
36 Only the units originally assisted by the agency shall be counted
37 towards the agency's obligations under Section 33413.

38 (3) The requirements of this section shall be made enforceable
39 in the same manner as provided in paragraph (7) of subdivision
40 (f) of Section 33334.3.

1 (4) If land on which the dwelling units required by this section
2 are located is deleted from the project area, the agency shall
3 continue to require that those units remain affordable as specified
4 in this subdivision.

5 (5) For each unit counted towards the requirements of
6 subdivisions (a) and (b), the agency shall require the recording in
7 the office of the county recorder of covenants or restrictions that
8 ensure compliance with this subdivision. With respect to covenants
9 or restrictions that are recorded on or after January 1, 2008, the
10 agency shall comply with the requirements of paragraphs (3) and
11 (4) of subdivision (f) of Section 33334.3.

12 (d) (1) This section applies only to redevelopment projects for
13 which a final redevelopment plan is adopted pursuant to Article 5
14 (commencing with Section 33360) on or after January 1, 1976,
15 and to areas that are added to a project area by amendment to a
16 final redevelopment plan adopted on or after January 1, 1976. In
17 addition, subdivision (a) shall apply to any other redevelopment
18 project with respect to dwelling units destroyed or removed from
19 the low- and moderate-income housing market on or after January
20 1, 1996, irrespective of the date of adoption of a final
21 redevelopment plan or an amendment to a final redevelopment
22 plan adding areas to a project area. Additionally, any agency may,
23 by resolution, elect to make all or part of the requirements of this
24 section applicable to any redevelopment project of the agency for
25 which the final redevelopment plan was adopted prior to January
26 1, 1976. In addition, subdivision (b) shall apply to redevelopment
27 plans adopted prior to January 1, 1976, for which an amendment
28 is adopted pursuant to Sections 33333.9 and 33333.10, except that
29 subdivision (b) shall apply to those redevelopment plans
30 prospectively only so that the requirements of subdivision (b) shall
31 apply only to new and substantially rehabilitated dwelling units
32 for which the building permits are issued on or after the date that
33 the ordinance adopting the amendment pursuant to Sections
34 33333.9 and 33333.10 becomes effective.

35 (2) An agency may, by resolution, elect to require that whenever
36 dwelling units housing persons or families of low or moderate
37 income are destroyed or removed from the low- and
38 moderate-income housing market as part of a redevelopment
39 project, the agency shall replace each dwelling unit with up to
40 three replacement dwelling units pursuant to subdivision (a).

1 (e) Except as otherwise authorized by law, this section does not
2 authorize an agency to operate a rental housing development
3 beyond the period reasonably necessary to sell or lease the housing
4 development.

5 (f) Notwithstanding subdivision (a), the agency may replace
6 destroyed or removed dwelling units with a fewer number of
7 replacement dwelling units if the replacement dwelling units meet
8 both of the following criteria:

9 (1) The total number of bedrooms in the replacement dwelling
10 units equals or exceeds the number of bedrooms in the destroyed
11 or removed units. Destroyed or removed units having one or no
12 bedroom are deemed for this purpose to have one bedroom.

13 (2) The replacement units are affordable to and occupied by the
14 same income level of households as the destroyed or removed
15 units.

16 (g) “Longest feasible time,” as used in this section, includes,
17 but is not limited to, unlimited duration.

18 SEC. 6. The Legislature finds and declares that a special law
19 is necessary and that a general law cannot be made applicable
20 within the meaning of Section 16 of Article IV of the California
21 Constitution because of the unique circumstances of the original
22 territory within Project Area No. 1 of the Carson Redevelopment
23 Agency. The facts constituting the special circumstances are:

24 The original territory of Project Area No. 1 of the Carson
25 Redevelopment Agency, as established in 1971, contains an
26 unusually large amount of real property that is contaminated by
27 hazardous substances. The Carson Redevelopment Agency’s
28 remediation or removal of those hazardous substances from that
29 property requires more time and more tax increment revenues than
30 allowed by Section 33333.10 of the Health and Safety Code.